

STATE OF ARIZONA • EMERGENCY MEDICAL SERVICES AND TRAUMA SYSTEM

Certificates of Necessity for Ambulance Service

This Guidance Document provides a basic understanding of how ambulance service is regulated in Arizona by:

- (1) Describing the ambulance certificate of necessity (CON) system;
 - (2) Defining key terms;
 - (3) Providing instructions for companies or communities interested in applying for an ambulance CON;
 - (4) Describing the role of public necessity in an ambulance CON application;
 - (5) Describing how the Director evaluates an application for an ambulance CON; and
 - (6) Describing how to find answers to questions and obtain help with the CON application.
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1 - THE GROUND AMBULANCE CON SYSTEM

Authority: The Arizona Legislature passed laws (Statutes) authorizing the Arizona Department of Health Services (ADHS) to regulate ambulance services in Arizona through a Certificate of Necessity (CON) system. These laws were further supplemented by a series of Rules to describe how the CON process would work. The Bureau of EMS and Trauma System (Bureau) is the program within ADHS responsible for implementing these ambulance service Statutes and Rules.

Ambulance Service Regulation: In general, the Statutes and Rules ensure that all the residents of Arizona have access to ambulance service, whether they live in an urban area like Flagstaff or Peoria or a rural area like Fredonia or Gisela. Additionally the Statutes and Rules seek to ensure that ambulance services have the financial strength and volume of business to continue operations so that Arizonans have reliable service. Finally, the Statutes and Rules require that the Bureau investigate complaints about ambulance service in a fair and transparent manner.

Certificate of Necessity: A common misconception is that the Statutes and Rules are solely designed to limit the number of ambulance services in Arizona. This is not the case, as portions of the State have multiple providers with overlapping service areas where more than one ambulance company is providing services. But the Statutes and Rules do establish a requirement that anyone seeking to start an ambulance service, or to expand their current service, must be able to demonstrate that there is a public necessity for the proposed service.

2 - DEFINITIONS FOR KEY TERMS from Arizona Revised Statutes § 36-2201

"Certificate of necessity" means a certificate that is issued to an ambulance service by the department and that describes the following:

- (a) Service area.
- (b) Level of service.
- (c) Type of service.
- (d) Hours of operation.
- (e) Effective date.
- (f) Expiration date.
- (g) Legal name and address of the ambulance service.
- (h) Any limiting or special provisions the Director prescribes.

"Emergency medical services" means those services required following an accident or an emergency medical situation:

- (a) For on-site emergency medical care.
- (b) For the transportation of the sick or injured by a licensed ground or air ambulance.
- (c) In the use of emergency communications media.
- (d) In the use of emergency receiving facilities.

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(e) In administering initial care and preliminary treatment procedures by certified emergency medical technicians.

"Fit and proper" means that the Director determines that an applicant for a certificate of necessity or a certificate holder has the expertise, integrity, fiscal competence and resources to provide ambulance service in the service area.

"Needs assessment" means a study or statistical analysis that examines the need for ground ambulance service within a service area or proposed service area that takes into account the current or proposed service area's medical, fire, and police services.

"Public necessity" means an identified population needs or requires all or part of the services of a ground ambulance service.

3 - INSTRUCTIONS FOR APPLYING FOR AN AMBULANCE CERTIFICATE OF NECESSITY

A detailed explanation of the application process and the documentation requirements for applying for a CON is listed in [Arizona Administrative Code R9-25-902](#). The Bureau staff is available to answer questions and to provide assistance with the application process. Please see Section 6 for technical assistance information.

4 - DETERMINING PUBLIC NECESSITY

As mentioned above, the authority to operate a CON is based upon a determination of public need for the service. [Arizona Administrative Code R9-25-903](#) provides specific information on how public necessity is evaluated. This Rule recognizes that the primary focus should be on the best interests of the public and not upon protecting the territory or property rights of current providers in the area, though the impact on the current provider(s) of service is one of the factors to be evaluated. The Department believes that the primary focus for the determination of public necessity is made with reference to analyzing the needs of the community, the adequacy of the current services provided, maximizing the use of contemporary EMS protocols that have been demonstrated to save lives and quality of life, and ensure cost controls. The Director will use the information submitted in the application for a CON, information provided by the current service provider and other matters that may be relevant to the determination of public necessity including:

- A plan for a robust, on-going benchmarking and performance improvement process that encompasses all components of the EMS system from emergency medical dispatch through emergency department arrival;
- A plan to collect and submit electronic patient care reports consistent with [BEMSTS guidelines](#);
- A plan to adopt clinical guidelines and operating procedures for time sensitive illness consistent with [best practice guidelines](#);
- A plan to initiate guideline-based pre-arrival instructions for all callers accessing 9-1-1 for assistance;
- Evidence of regular attendance and participation in meetings of the regional and State EMS Councils;
- A plan to ensure that ambulance service will be maintained and improved for rural communities; and
- Assurance that the service model will be cost effective and not result in higher ambulance rates.

R9-25-903

A. In determining public necessity for an initial or amended certificate of necessity, the Director shall consider the following:

- 1. The response times, response codes, and response-time tolerances proposed by the applicant for the service area;*
- 2. The population demographics within the proposed service area;*
- 3. The geographic distribution of health care institutions within and surrounding the service area;*
- 4. Whether issuing a certificate of necessity to more than one ambulance service within the same service area is in the public's best interest, based on:*

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- a. The existence of ground ambulance service to all or part of the service area;*
- b. The response times of and response-time tolerances for ground ambulance service to all or part of the service area;*
- c. The availability of certificate holders in all or part of the service area; and*
- d. The availability of emergency medical services in all or part of the service area;*
- 5. The information in R9-25-902(A)(1) and (A)(2); and*
- 6. Other matters determined by the Director or the applicant to be relevant to the determination of public necessity. (Refer to the seven bullet points above)*

B. *In deciding whether to issue a certificate of necessity to more than one ground ambulance service for convalescent or interfacility transport for the same service area or overlapping service areas, the Director shall consider the following:*

- 1. The factors in subsections (A)(2), (A)(3), (A)(4)(a), (A)(4)(c), (A)(4)(d), (A)(5), and (A)(6);*
- 2. The financial impact on certificate holders whose service area includes all or part of the service area in the requested certificate of necessity;*
- 3. The need for additional convalescent or interfacility transport; and*
- 4. Whether a certificate holder for the service area has demonstrated substandard performance.*

C. *In deciding whether to issue a certificate of necessity to more than one ground ambulance service for a 9-1-1 or similarly dispatched transport within the same service area or overlapping service areas, the Director shall consider the following:*

- 1. The factors in subsections (A), (B)(2), and (B)(4);*
- 2. The difference between the response times in the service area and proposed response times by the applicant;*
- 3. A needs assessment adopted by a political subdivision, if any; and*
- 4. A needs assessment, referenced in A.R.S. § 36-2210, adopted by a local emergency medical services coordinating system, if any.*

5 - DIRECTOR'S EVALUATION OF AN AMBULANCE CON APPLICATION

Note: Most applications for an ambulance CON will require that a hearing be held before an administrative law judge who will, after hearing the evidence and arguments from all parties, issue a recommended ruling. This ruling is then transmitted to the Director for final consideration.

[Arizona Revised Statutes § 36-2233\(B\)](#) states

The director shall issue a certificate of necessity if all of the following apply:

- 1. The ambulance service has a certificate of registration issued by the department for at least one ambulance pursuant to section 36-2212.*
- 2. The director finds that public necessity requires the service or any part of the service proposed by the applicant.*
- 3. The director finds that the applicant is fit and proper to provide the service.*
- 4. The applicant has paid the appropriate fees pursuant to section 36-2240.*
- 5. The applicant has filed a surety bond pursuant to section 36-2237.*

6 - TECHNICAL ASSISTANCE

[Arizona Revised Statutes § 36-2232\(A\)\(10\)](#): Offer technical assistance to ambulance services in order to obtain or to amend a certificate of necessity. The Department is committed to providing assistance in the CON application process. At any time, an individual may contact the CON section at (602) 364-3173. Assistance can be provided over the telephone or in person at the Bureau's office or the applicant's place of business.

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Additional Links:

- [Arizona Revised Statutes § 36-2210](#): Local Emergency Medical Services Coordinating Systems
- [Arizona Revised Statutes § 36-2212](#): Certificate of registration to operate an ambulance; termination on change in ownership; fees; exemption
- [Arizona Revised Statutes § 36-2237](#): Required Insurance, financial responsibility or bond, revocation for failure to comply
- [Arizona Revised Statutes § 36-2240](#): Fees